FIRST DIVISION
SEPTEMBER 30, 2013

No. 1-12-2518

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

GEOFFREY POMERANTZ,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	Cook County.
	)	
v.	)	No. 10 L 011288
	)	
WENDI TAYLOR-NATIONS,	)	Honorable
	)	Kathy M. Flanagan,
Defendant-Appellee.	)	Judge Presiding.

JUSTICE CUNNINGHAM delivered the judgment of the court.
Presiding Justice Connors and Justice Delort concurred in the judgment.

ORDER

¶ 1 *Held*: The circuit court's dismissal of the plaintiff's defamation *per se* claim in the original complaint is not properly before this court for review on appeal; the circuit court properly dismissed the plaintiff's fifth amended complaint with prejudice.

¶ 2 This appeal arises from the July 25, 2012 order entered by the circuit court, which dismissed with prejudice a fifth amended complaint filed by plaintiff Geoffrey Pomerantz (Geoffrey) against defendant Wendi Taylor-Nations (Wendi). On appeal, Geoffrey argues that: (1) the circuit court erred in dismissing with prejudice his claim of defamation *per se* in its February 9, 2011 order; and

(2) the circuit court erred in dismissing his fifth amended complaint with prejudice in its July 25, 2012 order. For the following reasons, we affirm the judgment of the circuit court of Cook County.

¶ 3 BACKGROUND

¶ 4 The pleadings in the case at bar alleged the following: In September 1998, Geoffrey and Wendi were colleagues at a public relations firm, Hill and Knowlton. Subsequently, Geoffrey and his wife, Olga, became friends with Wendi and her family. In 2008, Geoffrey became unemployed and received Illinois unemployment insurance benefits. Wendi was aware of Geoffrey's unemployment status and offered to provide assistance to Geoffrey in securing new employment.

¶ 5 On January 15, 2010, Geoffrey and Olga became legally separated and ceased cohabitating by April 2010. On September 29, 2011, Geoffrey and Olga's divorce allegedly became finalized. Beginning in May 19, 2010, over the course of two days, Wendi emailed Geoffrey in which she told him to "be very scared. VERY." Wendi then made several postings on the online social networking site, Facebook, in which she allegedly made disparaging public statements about Geoffrey. It is alleged that Wendi's Facebook postings urged others to disassociate themselves from Geoffrey, that the postings stated that Geoffrey's behavior was inappropriate, and that they accused Geoffrey of "torturing" his wife and daughter, Arielle, and also accused him of not supporting Arielle during his divorce proceedings. It is alleged that Wendi's Facebook postings accused Geoffrey of "crimes of moral turpitude" and "a complete lack of integrity." At the time these statements were posted on Facebook, Wendi allegedly had over 300 Facebook "friends" who had access to the statements–many of whom either knew Geoffrey or shared the same profession as Geoffrey. In response, several of Wendi's Facebook friends commented on her postings by making their own statements on Facebook

about Geoffrey's conduct. Allegedly, at least four of these commentators, who were Geoffrey's professional colleagues, "proactively dissociated [from] [him] based on [Wendi's] postings." It is further alleged that Wendi called Geoffrey and left a "harassing and disturbing message."

¶ 6 On October 4, 2010, Geoffrey filed a complaint against Wendi, alleging claims of defamation *per se* (count I), defamation *per quod* (count II), false light invasion of privacy (count III), and tortious interference with prospective business (count IV), in connection with Wendi's Facebook postings. Attached to the complaint were a timeline of Wendi's "cyberbullying" (Exhibit A) and a verbatim replica of Wendi's Facebook postings at issue and the ensuing comments made by her Facebook friends (Exhibit B). On November 24, 2010, Wendi filed a section 2-615 motion to dismiss (735 ILCS 5/2-615 (West 2010)), arguing that Geoffrey's complaint was deficiently pled and failed to state a cause of action for his claims.

¶ 7 On February 9, 2011, the circuit court dismissed with prejudice the defamation *per se* claim (count I), finding that the postings did not charge Geoffrey with the commission of a crime, did not name him as the subject of the postings, and references to "torture" were "hyperbolic and [could] be innocently construed." The circuit court dismissed without prejudice the remaining claims, with leave to amend, finding that Geoffrey failed to properly allege special damages and allegations of extrinsic facts to support a claim of defamation *per quod* (count II), and that he failed to plead relevant factual allegations which would support all of the elements of the false light invasion of privacy claim (count III) and tortious interference with prospective business claim (count IV). Thereafter, counsel for Geoffrey was granted leave of court to withdraw from representing him.

¶ 8 On May 3, 2011, Geoffrey filed a *pro se* first amended complaint, alleging defamation *per*

quod (count I), false light invasion of privacy (count II), and tortious interference with prospective business (count III). Attached to the first amended complaint was again a verbatim copy of Wendi's Facebook postings at issue (Exhibits C and D). On May 24, 2011, Wendi filed a section 2-615 motion to dismiss (735 ILCS 5/2-615 (West 2010)), arguing that Geoffrey's *pro se* first amended complaint did not cure the deficiencies of the original complaint. In response, Geoffrey argued that the circuit court erred in dismissing his claim of defamation *per se* in its February 9, 2011 ruling, and that all three counts of the first amended complaint were sufficiently pled.

¶ 9 On August 12, 2011, the circuit court granted the motion to dismiss the first amended complaint, finding that it continued to have the same deficiencies as that contained in the original complaint. The circuit court declined to entertain Geoffrey's arguments relating to the February 9, 2011 dismissal of his defamation *per se* claim, finding that he had failed to file a timely motion to reconsider the February 9, 2011 ruling and that it was "inappropriate to seeks [*sic*] reconsideration of a prior order in the response to [Wendi's] motion as to a newly filed pleading." The circuit court then allowed Geoffrey to file a second amended complaint.

¶ 10 On September 2, 2011, Geoffrey filed a *pro se* second amended complaint, alleging defamation *per quod* (count I), false light invasion of privacy (count II), and tortious interference with prospective business (count III). Geoffrey attached numerous exhibits to the second amended complaint, including, again, the Facebook postings at issue (Exhibit F). On September 23, 2011, Wendi filed a section 2-615 motion to dismiss (735 ILCS 5/2-615 (West 2010)), and an amended motion to dismiss on October 3, 2011, arguing that the second amended complaint should be dismissed with prejudice for failing to state a cause of action for defamation *per quod*, false light

invasion of privacy and tortious interference with prospective business.

¶ 11 On December 9, 2011, the circuit court dismissed the second amended complaint, but granted Geoffrey leave to file a third amended complaint.

¶ 12 On December 30, 2011, Geoffrey filed a *pro se* third amended complaint, alleging defamation *per quod* (count I), false light invasion of privacy (count II), and tortious interference with prospective business (count III). Geoffrey again attached numerous exhibits to the third amended complaint, including the Facebook postings at issue in this case (Exhibit F). On January 20, 2012, Wendi filed a section 2-615 motion to dismiss (735 ILCS 5/2-615 (West 2010)), arguing that the third amended complaint was deficiently pled. Rather than file a response, on January 26, 2012, Geoffrey filed a *pro se* fourth amended complaint, which realleged the same claims but did not contain any exhibits regarding the Facebook postings. On January 30, 2012, Wendi filed another section 2-615 motion to dismiss (735 ILCS 5/2-615 (West 2010)), arguing that the fourth amended complaint was deficiently pled and that it should be dismissed with prejudice.

¶ 13 On April 11, 2012, the circuit court granted the motion to dismiss, finding that the allegations in the fourth amended complaint remained deficient and did not state a cause of action for Geoffrey's claims. The circuit court remarked that it had already given Geoffrey five opportunities "to attempt to state a cause of action," and that, under the facts and circumstances, it was unlikely that he would be able to properly do so. Nonetheless, the circuit court granted Geoffrey one last opportunity to amend the pleading as a fifth amended complaint.

¶ 14 On May 2, 2012, Geoffrey filed a *pro se* fifth amended complaint, alleging defamation *per quod* (count I), false light invasion of privacy (count II), and tortious interference with prospective

business (count III). Neither the Facebook postings nor any other documents were attached as exhibits to the pleading. On May 23, 2012, Wendi filed a section 2-615 motion to dismiss (735 ILCS 5/2-615 (West 2010)), which was later amended on May 30, 2012, arguing that the fifth amended complaint was substantially similar to the fourth amended complaint and that it did not cure the deficiencies in the fourth amended complaint. On June 27, 2012, Geoffrey filed a response to Wendi's motion to dismiss the fifth amended complaint by reiterating that his claims were sufficiently pled. The response stated that the Facebook postings at issue and other pertinent documents were attached as exhibits to the response. However, these exhibits were not included in the record before this court. On July 11, 2012, Wendi filed a reply to Geoffrey's June 27, 2012 response, noting that "there were no exhibits attached to either the [f]ifth [a]mended [c]omplaint or the response hand delivered to [d]efense counsel."

¶ 15 On July 25, 2012, the circuit court dismissed the fifth amended complaint with prejudice, finding that Geoffrey failed to state a cause of action for his claims. Specifically, the court found that Geoffrey again failed to allege extrinsic facts and special damages to support a claim of defamation *per quod*, that the new allegations were irrelevant and conclusory, and that he failed to set forth "specific, relevant factual allegations which support all the elements of the claims of false light invasion of privacy and tortious interference with prospective business." In dismissing the fifth amended complaint with prejudice, the circuit court noted that this was Geoffrey's sixth unsuccessful attempt to state a cause of action for the claims and that it was unlikely that he would ever be able to properly do so under the circumstances.

¶ 16 On August 24, 2012, Geoffrey filed a notice of appeal.

¶ 17 ANALYSIS

¶ 18 We determine whether the circuit court erred in dismissing the fifth amended complaint with prejudice.

¶ 19 As a preliminary matter, we note that Geoffrey argues that the circuit court, in its February 9, 2011 order, erred in dismissing with prejudice the claim of defamation *per se* in his original complaint. We find that Geoffrey has procedurally forfeited any challenge to the dismissal of his defamation *per se* claim against Wendi pursuant to the trial court's ruling of February 9, 2011. See *Vilardo v. Barrington Community School District 220*, 406 Ill. App. 3d 713 (2010).

¶ 20 In order to avoid forfeiture on appeal, "a party wishing to preserve a challenge to an order dismissing with prejudice fewer than all of the counts in his complaint has several options." *Id.* at 719. "First, the plaintiff may stand on the dismissed counts and argue the matter at the appellate level." *Id.* "Second, the plaintiff may file an amended complaint realleging, incorporating by reference, or referring to the claims set forth in the prior complaint." *Id.* Under this second option, a simple paragraph or footnote in the amended pleadings notifying the defendant and the court of the plaintiff's intention to preserve the dismissed portions of his former complaints for appeal is sufficient. *Id.*, citing *Tabora v. Gottlieb Memorial Hospital*, 279 Ill. App. 3d 108, 114 (1996). "Third, a party may perfect an appeal from the order dismissing fewer than all of the counts of his or her complaint prior to filing an amended pleading that does not include reference to the dismissed counts." *Vilardo*, 406 Ill. App. 3d at 719. In the case at bar, we find that Geoffrey has not pursued any one of these options, and thus, has forfeited review on appeal of the dismissed defamation *per se* claim against Wendi. See *Tunca v. Painter*, 2012 IL App (1st) 093384, ¶ 28 (plaintiff forfeited

his right to seek review of the circuit court's dismissed claims, where the second and third amended complaints did not "incorporate, reallege or otherwise refer to those counts, and no appeal was taken before the filing of the second and third amended complaints"); *Duffy v. Orlan Brook Condominium Owners' Ass'n*, 2012 IL App (1st) 113577, ¶ 30 ("[w]here there is a completed amendment that does not refer to or adopt a prior pleading, the earlier pleading ceases to be part of the record and is abandoned and withdrawn for most purposes"). Moreover, we note that the record is devoid of any evidence that Geoffrey filed a motion to reconsider the circuit court's February 9, 2011 ruling, thereby depriving the circuit court of the opportunity to review its decision and correct any alleged errors in dismissing the defamation *per se* count. In fact, the circuit court's August 12, 2011 order, which dismissed Geoffrey's first amended complaint, specifically noted that it would not address Geoffrey's belated arguments relating to the dismissal of his defamation *per se* claim because he had failed to file a timely motion to reconsider the February 9, 2011 ruling. Therefore, we hold that the defamation *per se* claim, which was alleged in the original complaint, is not properly before this court on appeal.

¶ 21 Turning to the merits of the appeal, we determine whether the circuit court erred in dismissing the fifth amended complaint with prejudice, which we review *de novo*. *Duffy*, 2012 IL App (1st) 113577, ¶ 14. As discussed, the fifth amended complaint alleged defamation *per quod* (count I), false light invasion of privacy (count II), and tortious interference with prospective business (count III). On appeal, Geoffrey does not make any arguments challenging the dismissal of the defamation *per quod* claim; thus, Geoffrey has forfeited review of this claim on appeal. See Ill. S. Ct. R. 341(h)(7) (eff. Sept. 1, 2006) (points not argued in the appellant's brief are waived and

shall not be raised in the reply brief, in oral argument, or on petition for rehearing). Accordingly, only the claims of false light invasion of privacy (count II) and tortious interference with prospective business (count III) in the fifth amended complaint are properly before this court for review on appeal.

¶ 22 Geoffrey argues that the circuit court erred in dismissing his claim of false light invasion of privacy (count II), arguing that Wendi's Facebook postings were published to over 300 Facebook friends, that at least 14 individuals had read the postings, that he was not required to plead any special damages to support this claim, and that accusations of adultery in the Facebook postings had embarrassed him with numerous colleagues, family members and neighbors.

¶ 23 Wendi counters that the circuit court properly dismissed the false light invasion of privacy claim. Specifically, she argues that Geoffrey's contention that he was embarrassed by the Facebook postings regarding his pursuit of other women was not supported by the allegations of the fifth amended complaint. Wendi further contends that the allegations of the fifth amended complaint were "conclusions unsupported by facts which, if proven, would not establish that the Facebook postings placed him in a false light that was highly offensive to a reasonable person." She argues that the allegations in the fifth amended complaint did not sufficiently plead the element of publicity as to support the false light invasion of privacy claim, and that they did not support Geoffrey's speculative argument that many individuals had viewed the Facebook postings at issue but did not comment on them.

¶ 24 A section 2-615 motion to dismiss challenges the legal sufficiency of the complaint based on defects apparent on its face. *Duffy*, 2012 IL App (1st) 113577, ¶ 14. "In reviewing a section 2-

615 dismissal motion, the relevant question is whether, taking all well-pleaded facts as true, the allegations in the complaint, construed in a light most favorable to the plaintiff, are sufficient to state a cause of action upon which relief may be granted." *Id.* A section 2-615 motion to dismiss is granted where "no set of facts can be proved entitling the [p]laintiff to recovery." *Id.* However, a plaintiff "may not rely on factual or legal conclusions that are not supported by factual allegations." *Id.* We may affirm the circuit court's decision on any basis supported by the record. *In re Huron Consulting Group, Inc.*, 2012 IL App (1st) 103519, ¶ 33.

¶ 25 To state a cause of action for false light invasion of privacy, a plaintiff must allege: (1) the plaintiff was placed in a false light before the public as a result of the defendant's actions; (2) the trier of fact could decide that the false light in which the plaintiff was placed would be highly offensive to a reasonable person; and (3) the defendant acted with malice, that is, with knowledge that the statements were false or with reckless disregard for whether the statements were true or false. *Dubinsky v. United Airlines Master Executive Council*, 303 Ill. App. 3d 317, 330 (1999).

¶ 26 In the case at bar, as discussed, Geoffrey failed to attach as exhibits a copy of the Facebook postings or any other documents to his final amended pleading–the fifth amended complaint. While Geoffrey had attached the Facebook postings as exhibits to the original complaint, the first amended complaint, the second amended complaint, and the third amended complaint, he did not attach them to the pleadings which are the subject of this appeal. Consequently, the Facebook postings are therefore not properly before this court. Once the final and completed amendment was filed–in this case, the fifth amended complaint–earlier pleadings ceased to be part of the record and were abandoned and withdrawn. See *Duffy*, 2012 IL App (1st) 113577, ¶ 30 ("[w]here there is a

completed amendment that does not refer to or adopt a prior pleading, the earlier pleading ceases to be part of the record and is abandoned and withdrawn for most purposes"). Thus, without attaching a verbatim copy of the Facebook postings as an exhibit to the fifth amended complaint, this court is confined to considering only the factual allegations within the four corners of the pleading. See generally *Kirchner v. Greene*, 294 Ill. App. 3d 672, 677 (1998) (exhibits attached to the complaint are a part of the complaint and must be considered). Further, as the appellant, Geoffrey has the burden to provide this court with a complete record on appeal, and thus, any doubts which may arise from the incompleteness of the record will be resolved against him. See *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). Moreover, even assuming Geoffrey had attached a copy of the Facebook postings to his June 27, 2012 *response* to Wendi's motion to dismiss the fifth amended complaint, in the absence of such an attachment to the fifth amended complaint, we find that the materials contained in the attachment would not have been properly before this court. See *Kirchner*, 294 Ill. App. 3d at 678-79 (striking affidavits and exhibits, which were included in plaintiff's *reply* to defendant's motion to dismiss complaint but excluded from the complaint's exhibits, as matters outside the scope of the complaint because "they clearly exceeded the material that can be considered in such a motion").

¶ 27 We find that the allegations of the fifth amended complaint, construed in a light most favorable to Geoffrey, failed to state a cause of action for false light invasion of privacy. Because the circuit court had previously dismissed with prejudice Geoffrey's defamation *per se* claim in his original complaint, a ruling which we do not review on appeal, the language of the Facebook postings could only have been established as defamatory by reference to extrinsic facts. See *Schaffer*

v. Zekman, 196 Ill. App. 3d 727, 733 (1990). A claim of false light invasion of privacy "based on language, the defamatory meaning of which can be established only by reference to extrinsic facts, requires the pleading of special damages with particularity." *Id.* at 736. Here, paragraphs 46, 133 and 134 of the fifth amended complaint contained allegations that Wendi's Facebook postings "prejudiced [Geoffrey's] character and good name and have hindered his efforts to find a job in the PR industry," that Geoffrey's "job prospects have been damaged by [Wendi's] statements," and that his reputation "has been injured as a result of [Wendi's] actions in posting the false statements on the [i]nternet." We find these allegations to be insufficient to plead special damages with particularity. See *id.* at 733 (general allegations of damage to health or reputation, economic loss, or emotional distress, are insufficient to plead special damages). Accordingly, we conclude that Geoffrey's failure to plead special damages alone is fatal to his false light invasion of privacy claim. See *id.* at 735.

¶ 28 Moreover, we find that the fifth amended complaint failed to satisfy the third element necessary to plead a cause of action for false light invasion of privacy. Under the "facts" and "count II false light" sections of the pleading, Geoffrey alleged that, during the relevant time period, Wendi posted "at least six (6) false and disparaging public statements" regarding Geoffrey on Facebook (paragraphs 22 and 93), that the statements were "false because [Geoffrey] has never engaged in the type of conduct of which [Wendi] accuses him" (paragraph 47), and that these statements were "false" (paragraph 94). Taking all well-pled facts as true, we find that these allegations only proclaim that the contents of the statements were false, but do not sufficiently allege that Wendi *knew* that the statements were false when she posted them, so as to satisfy the "malice" requirement

under the false light invasion of privacy claim. Nor does the conclusory allegation that Wendi acted with "reckless disregard" (paragraph 135) satisfy the malice requirement, where it does not adequately allege that Wendi acted with reckless disregard as to whether the statements were true or false. Compare *Dubinsky*, 303 Ill. App. 3d at 331 (plaintiffs pled defendant knew the statements were false or acted with reckless disregard as to whether the statements were true or false, thus satisfying the actual malice standard). Thus, Geoffrey has not set forth factual allegations which, if proven, would allow a jury to find the existence of legally defined malice. Therefore, we conclude that Geoffrey has not stated a cause of action for false light invasion of privacy, and the circuit court properly dismissed the count.

¶ 29 Geoffrey next argues that the circuit court erred in dismissing his claim of tortious interference with prospective business (count III), arguing that he has sufficiently pled all of the elements of the claim.

¶ 30 Wendi counters that the circuit court properly dismissed the tortious interference with prospective business claim (count III), arguing that Geoffrey failed to allege sufficient facts to establish the elements of the claim.

¶ 31 To state a cause of action for intentional interference with prospective economic advantage, a plaintiff must allege: "(1) a reasonable expectancy of entering into a valid business relationship; (2) the defendant's knowledge of the expectancy; (3) an intentional and unjustified interference by the defendant that induced or caused a breach or termination of the expectancy; and (4) damage to the plaintiff resulting from the defendant's interference." *Anderson v. Vanden Dorpel*, 172 Ill. 2d 399, 406-07 (1996).

¶ 32 We find that the allegations of the fifth amended complaint, construed in a light most favorable to Geoffrey, failed to state a cause of action for tortious interference with prospective business. In *Anderson*, an employee brought an intentional interference with prospective economic advantage claim against her employer on the basis that she would have received an offer of employment from potential employer, YMCA, had her then-current employer not made defamatory statements about her work performance. *Id.* at 403-04. The plaintiff alleged in her complaint that she interviewed with YMCA several times, that the interviewers told her that the interviews went well, that she was a leading candidate for the job, and that the defamatory statements caused YMCA to stop considering her for employment by cancelling two follow-up interviews. *Id.* The circuit court dismissed the count with prejudice, but the appellate court reversed the circuit court's ruling. *Id.* at 405-06. In reversing the appellate court's decision and upholding dismissal of the claim, our supreme court found that the allegations in the complaint failed to state a cause of action for intentional interference with prospective economic advantage. *Id.* at 407. Specifically, the *Anderson* court found that allegations showed "nothing more than that the plaintiff was a candidate for a position with the YMCA and that she was scheduled for further interviews at the time her candidacy came to an end." *Id.* at 407-08. The fact that the plaintiff was told by the interviewers that the interviews went well and that she would be recommended for the job did not "give rise to a legally protectible expectancy." *Id.* at 408. The *Anderson* court further noted that "the hope of receiving a job offer is not a sufficient expectancy," and explained that, much like informal assurances of good will, comments in the course of interviews "do not by themselves constitute contractual obligations." *Id.* Our supreme court also noted that, to find the allegations sufficient to state a claim of intentional

interference with prospective economic advantage, would considerably and improperly broaden the scope of that tort to expose "anyone supplying a negative reference to a potential employer *** to an action for intentional interference with prospective economic advantage." *Id.* at 411.

¶ 33 In the case at bar, the fifth amended complaint alleged that Geoffrey "established an ongoing business relationship with Edelman Public Relations" (Edelman PR) in 2005 (paragraph 9); that Edelman PR recruiter Jessica Abraham (Abraham) routinely contacted him regarding specific employment opportunities (paragraph 137); that Edelman PR's senior manager, Jeff Zilka (Zilka), informed Abraham that he would hire Geoffrey (paragraph 138); that Abraham and Zilka worked together to help secure employment for Geoffrey at Edelman PR (paragraph 140); that on July 1, 2010, Abraham informed Geoffrey that she would contact him on July 8 "to schedule another interview with Geoffrey, as there was a position he was a prime candidate for," but that Abraham never spoke with him again despite Geoffrey's repeated attempts to contact her (paragraphs 141 and 142); that it was "entirely possible" that Abraham had direct access to Wendi's Facebook postings (paragraph 144); that, during a lunch meeting with Zilka in November 2010, Zilka informed Geoffrey that Edelman PR's human resources department routinely checked Facebook and that Wendi's Facebook postings amounted to "digital lynching" (paragraph 146); and that Geoffrey had a longstanding relationship with Edelman PR's Harlan Loeb (Loeb), who no longer responded to Geoffrey's employment inquiries following Wendi's Facebook postings (paragraphs 150 and 151). The pleading further alleged that Geoffrey had "reached the final round of interviews several times, to the extent that he was led to believe that receiving a job offer was merely a formality and forthcoming, only to have potential employers suddenly begin to avoid him" (paragraph 153); that

these potential employers all had some connection to Wendi (paragraph 154); that on May 4, 2010, Geoffrey had "completed an extensive pre-screening process with Hewitt Associates and interviewed with Jim Kappel (Kappel) of Harris Bank (paragraph 155); that Kappel told Geoffrey at the interview that he was qualified for the available position (paragraph 156); that on or about May 18, 2010, Geoffrey had a second round of interviews at Harris Bank (paragraph 157); that Kappel informed Geoffrey via email that there was "good feedback" on his interviews (paragraph 159), but that, on June 21, 2010, Kappel informed him that the position was no longer available (paragraph 160); that in the fall of 2011, the same position became available at Harris Bank (paragraph 162); and that Geoffrey contacted Kappel about the available position and was informed by Kappel that he was aware of "some negative statements" about Geoffrey on Facebook (paragraph 163). The fifth amended complaint further alleged that Debbie Levy (Levy) of GolinHarris informed Geoffrey that she did not schedule him for an interview because she was aware of the Facebook postings at issue (paragraph 171); that prior to Wendi's Facebook postings, Geoffrey enjoyed a cordial professional relationship with Hill and Knowlton employee, Harlan Teller (Teller), who agreed to serve as Geoffrey's professional reference (paragraph 174); and that, after Wendi's Facebook postings, Teller declined to personally assist Geoffrey or recommend him for employment (paragraph 175).

¶ 34 Applying the principles of *Anderson*, we find that the allegations in the fifth amended complaint at most showed that Geoffrey was a candidate for available positions with Edelman PR, Harris Bank and other unidentified potential employers, and that he was scheduled for, or planned on being scheduled for, further interviews at the time his candidacy came to an end. The fact that Geoffrey was informed by Kappel of Harris Bank that he received "good feedback" following a

second round of interviews did not "give rise to a legally protectible expectancy." *Id.* at 408. As noted by the *Anderson* court, "the hope of receiving a job offer is not a sufficient expectancy," and we find that comments made by potential employers to Geoffrey during the course of interviews did not "by themselves constitute contractual obligations." *Id.* Further, we reject Geoffrey's attempt to distinguish the sound holding in *Anderson*, on the basis that *Anderson* involved a "one and done" job interview experience, whereas here, he maintained an "ongoing business relationship" with Edelman PR and had interviewed with the firm for various positions over the years. We find this to be a distinction without a difference. Nowhere in the *Anderson* holding does the court consider the quantity of interviews or number of available positions as factors in determining whether a pleading sufficiently alleged a valid business expectancy. Thus, we hold that Geoffrey failed to sufficiently plead the first element–reasonable expectancy of entering into a valid business relationship–to support a claim of tortious interference with prospective business.

¶ 35 We further find that, even assuming the first element was met, Geoffrey failed to sufficiently plead the second element necessary to support the claim of tortious interference with prospective business. In the fifth amended complaint, Geoffrey alleged that Wendi was aware of Geoffrey's relationship with Zilka and Loeb, and that she knew Geoffrey was searching for employment (paragraphs 149 and 176). We find these allegations to be insufficient to establish that Wendi had knowledge of a valid business expectancy between Geoffrey and Edelman PR. Rather, at best, they established that Wendi knew Geoffrey was seeking employment at Edelman PR. Moreover, we reject Geoffrey's references to email correspondences attached as exhibits to his first amended complaint in support of this argument, where, as discussed, those documents are not proper before

this court for review on appeal. Thus, we hold that Geoffrey had not alleged sufficient facts which, if proven, would establish that Wendi had knowledge of any valid business expectancy involving Geoffrey and potential employers. Therefore, the fifth amended complaint failed to state a cause of action for tortious interference with prospective business. Accordingly, the circuit court properly dismissed the fifth amended complaint with prejudice.

¶ 36 In so holding, we note that it is quite understandable that Geoffrey is outraged by Wendi's conduct, which was intrusive, tactless and distasteful. However, we also note that Geoffrey, as a *pro se* litigant, is not excused from following the proper procedures and pleading requirements in pursuing his claims against her. See *Holzrichter v. Yorath*, 2013 IL App (1st) 110287, ¶ 78 (a *pro se* litigant is not entitled to more lenient treatment than attorneys); *In re Estate of Pellico*, 394 Ill. App. 3d 1052, 1067 (2009) ("*pro se* litigants are presumed to have full knowledge of applicable court rules and procedures and must comply with the same rules and procedures as would be required of litigants represented by attorneys").

¶ 37 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 38 Affirmed.